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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/493,794	01/28/2000	Michael F. Giesler	CHEMCO.023A	2672
20995 7590 04/23/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER WEISBERGER, RICHARD C	
			ART UNIT	PAPER NUMBER
			3693	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/23/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/23/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com



### **DETAILED ACTION**

1. Applicant's election without traverse of claims 1-10 in the reply filed on 6/25/2002 is acknowledged.
2. This application contains claims 11-25 and 31-34 are drawn to an invention nonelected with traverse in dated 6/25/2002. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Following the decision of Ex parte Lyell, a single claim may not be directed to more than one statutory invention. In this case, the preamble of claim 1 is directed to a product, yet the limitations are directed to both a product and a method. The method step includes a member generating and transmitting data. Therefore, the claim is indefinite. The enterprise resource (erp) planning system of claim 1 is indefinite in scope. It is not clear what functionality is essential to this system nor is it clear what component make up this system, nor is it clear where it resides and is configured, particularly with respect to the system of the preamble.

The applicant is encouraged to contact the examiner for assistance in drafting the claims.

***Claim Rejections - 35 USC § 102***

5. Claim 1-10 is rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Press Release of 1999.

The applicant argues that the press release, dated August 1999, does not qualify under 35 U.S.C. 102(b) and is correct. The rejection has been amended to one under 102(a).

The applicant should file an affidavit under 37 CFR 1.131.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C Weisberger whose telephone number is 571 272 6753.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Krammer. The phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3693

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard C. Weisberger  
Primary Examiner  
Art Unit 3624